

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 2:19-CR-00071

PAUL W. BURKE, M.D.,

Defendant.

MOTION TO CONTINUE

NOW COMES the Defendant, **PAUL W. BURKE, M.D.**, by and through his attorney, **GEORGE J. COSENZA**, and moves this Court to continue the sentencing hearing scheduled in the above-cited matter for the 16th day of September, 2021, on the following grounds:

1. The Defendant was one of multiple Defendants named in *United States of America v. James H. Blume, Jr., et. al.*, Case No. 5:18-cr-00026
2. On the 3rd day of October, 2019, the Defendant pled guilty to a single count information in the above-cited matter charging him with Conspiracy to Distribute Controlled Substances Not For Legitimate Medical Purposes and Beyond the Bounds of Medical Practice in violation of 18 U.S.C. §371.
3. As part of the Defendant's plea agreement, he agreed to fully cooperate with the United States and, if necessary, to provide trial testimony against the remaining Defendants, in Case No. 5:18-cr-00026.
4. The Defendant has fully cooperated with the United States and has provided valuable information to assist the United States in the prosecution of the remaining defendants. In addition, he is willing to testify at the trial of the

remaining defendants.

5. The trial of the remaining defendants has been continued a number of times and, corresponding thereto, the sentencing of the Defendant has been continued to give the Court the opportunity to consider the anticipated substantial assistance motion to be filed by the United States at the conclusion of the trial.
6. On the 29th day of October, 2019, Case No. 5:18-cr-00026 was transferred to the Honorable Frank W. Volk. The trial of the remaining co-defendants is scheduled for March 28, 2022.
7. One of the purposes of sentencing is to ensure consistent sentences, especially for co-defendants who are named in the indictment, considering their varying levels of culpability.
8. As of this date, two of the defendant's, William Early, D.O. and Roswell, Tempest Lowery, M.D. have entered guilty pleas before Judge Volk, to-wit: Dr. Early pled guilty to Count 14 of the Third Superseding Indictment charging him with Distribution of Oxycodone in violation of 21 U.S.C. §841(a)(1). His sentencing is scheduled for June 3, 2022. Dr. Lowery pled guilty to an information charging him with Interstate Travel in Aid of Racketeering Enterprise in violation of 18 U.S.C. §1952(a)(3). His sentencing is scheduled for June 3, 2022.
9. In order that Dr. Burke's sentence be consistent with other sentences that maybe imposed in this matter, it would be appropriate to continue his sentencing until after the trial date of March 28, 2022 and near the time for sentencing of his co-defendants.

10. If the Court believes it to be proper and consistent with the practice in the Southern District, the Defendant would not object to his case being transferred to Judge Volk, as have the cases of the co-defendants named herein.

11. The United States has no objection to the Defendant's motion.

Dated this 24th day of August, 2021.

/s/ George J. Cosenza

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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant, **PAUL W. BURKE, M.D.**, hereby certifies that a true copy of the **MOTION TO CONTINUE**, was served electronically on the 24th day of August, 2021, addressed to the following:

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/s/ George J. Cosenza

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